

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CYTOLOGIX CORPORATION,

Plaintiff,

v.

VENTANA MEDICAL SYSTEMS, INC.,

Defendant.

Civ. Action No. 04-11783 (RWZ)

DECLARATION OF MICHAEL ZELIGER

I, Michael E. Zeliger, an attorney in the law firm Fish & Richardson P.C., counsel for Plaintiff Cytologix Corporation, declare and state the following to be true, to the best of my knowledge, information, and belief:

1. I make this declaration in support of Plaintiff Cytologix Corporation's Combined Motion for Claim Construction and Summary Judgment of Infringement.
2. Attached hereto as Exhibit 1 is a true and correct copy of U.S. Patent No. 6,541,261.
3. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from the deposition transcript of Andrew Ghusson on September 8, 2005 (pp. 45:20-21; 48:18-49:4; 51:2-52:9; 58-21-25; 82:23-83:3).
4. Attached hereto as Exhibit 3 is a true and correct copy of the Patent Application from the prosecution history of U.S. Patent No. 6,541,261.
5. Attached hereto as Exhibit 4 is a true and correct copy of the Amendment dated December 10, 2001 from the prosecution history of U.S. Patent No. 6,541,261.
6. Attached hereto as Exhibit 5 is a true and correct copy of the Amendment dated August 27, 2002 from the prosecution history of U.S. Patent No. 6,541,261.
7. Attached hereto as Exhibit 6 is a true and correct copy of the Supplemental Amendment dated October 3, 2002 from the prosecution history of U.S. Patent No. 6,541,261.

8. Attached hereto as Exhibit 7 is a true and correct copy of the Interview Summary dated September 12, 2002 from the prosecution history of U.S. Patent No. 6,541,261.

9. Attached hereto as Exhibit 8 is a true and correct copy of the Notice of Allowability dated December 11, 2002 from the prosecution history of U.S. Patent No. 6,541,261.

10. Attached hereto as Exhibit 9 is a true and correct copy of excerpts from the BenchMark XT and BenchMark LT Operator Manual (VM000001-3, 10-13 and 218).

11. Attached hereto as Exhibit 10 is a true and correct copy of excerpts from the BenchMark XT/DiscoveryXT/BenchMark LT Service Manual (VM000425-427, 444, 446, 448, 453, 465).

12. Attached hereto as Exhibit 11 is a true and correct copy of excerpts from the BenchMark XT Reference Manual (VM 000223-225, 249, 254, 303).

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: November 17, 2005

BY: /s/ Michael E. Zeliger
Michael E. Zeliger